

AMENDED IN SENATE APRIL 1, 2008

SENATE BILL

No. 1739

Introduced by Senator Simitian

February 22, 2008

An act to amend ~~Section 8670.29~~ *Sections 8670.29 and 8670.30* of the Government Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

SB 1739, as amended, Simitian. Oil spill contingency plan.

The

(1) Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the discretion of the Governor, to implement activities relating to oil spill response, including drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government.

The act requires every owner or operator of specified marine facilities and owners or operators of certain vessels to prepare and implement an oil spill contingency plan containing specified provisions that has been submitted to, and approved by, the administrator. With respect to a marine facility, the act requires the plan to include provisions for training and drills on elements of the plan at least annually and provisions for subjecting all elements of the plan to drills or tests, as specified by the administrator, at least once every 3 years.

This bill would revise the requirements of the plan, with respect to a marine facility, to instead require the plan to include provisions for training and drills on all elements of the plan at least annually and provisions for subjecting all elements of the plan to tests, as specified by the administrator, at least once every 3 years.

(2) *The act authorizes an oil spill response organization (OSRO) to apply to the administrator for a rating of that OSRO's response capabilities. The administrator is authorized to require a rated OSRO to demonstrate that the rated OSRO can deploy the response resources required to meet the applicable provisions of an oil spill contingency plan in which the OSRO is listed. The act requires each rated OSRO to satisfactorily complete at least one unannounced drill every 3 years after receiving its rating, allows for specified drill substitutions.*

This bill would instead require the administrator to require a rated OSRO to demonstrate that the rated OSRO can deploy the response resources required to meet the applicable provisions of an oil spill contingency plan in which the OSRO is listed. The bill would also require the administrator to require satisfactory completion of one unannounced drill for each rated OSRO prior to being granted a renewal or prior to reinstatement of a revoked or suspended rating. The bill would limit certain drill substitutions to acts within the previous 3 years.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8670.29 of the Government Code is
2 amended to read:
3 8670.29. (a) In accordance with the rules, regulations, and
4 policies established by the administrator pursuant to Section
5 8670.28, ~~every~~ *an* owner or operator of a marine facility, small
6 marine fueling facility, or mobile transfer unit, prior to operating
7 in the marine waters of the state or where an oil spill could impact
8 marine waters; and ~~every~~ *an* owner or operator of a tank vessel,
9 nontank vessel, or vessel carrying oil as secondary cargo, before
10 operating in the marine waters of the state, shall prepare and
11 implement an oil spill contingency plan that has been submitted
12 to, and approved by, the administrator pursuant to Section 8670.31.
13 ~~Each~~ *An* oil spill contingency plan shall ensure the undertaking of
14 prompt and adequate response and removal action in case of an
15 oil spill, shall be consistent with the California oil spill contingency
16 plan, and shall not conflict with the National Oil and Hazardous
17 Substances Pollution Contingency Plan (NCP).

1 (b) ~~Each~~An oil spill contingency plan shall, at a minimum, meet
2 all of the following requirements:

3 (1) Be a written document, reviewed for feasibility and
4 executability, and signed by the owner or operator, or their
5 designee.

6 (2) Provide for the use of an incident command system to be
7 used during a spill.

8 (3) Provide procedures for reporting oil spills to local, state,
9 and federal agencies, and include a list of contacts to call in the
10 event of a drill, threatened spill, or spill.

11 (4) Describe the communication plans to be used during a spill.

12 (5) Describe the strategies for the protection of environmentally
13 sensitive areas.

14 (6) Identify at least one rated OSRO for each rating level
15 established pursuant to Section 8670.30. Each identified rated
16 OSRO shall be directly responsible by contract, agreement, or
17 other approved means to provide oil spill response activities
18 pursuant to the oil spill contingency plan. A rated OSRO may
19 provide oil spill response activities individually, or in combination
20 with another rated OSRO, for a particular owner or operator.

21 (7) Identify a qualified individual.

22 (8) Provide the name, address, and telephone and facsimile
23 numbers for an agent for service of process, located within the
24 state and designated to receive legal documents on behalf of the
25 owner or operator.

26 (c) An oil spill contingency plan for a vessel shall also include,
27 but is not limited to, all of the following requirements:

28 (1) ~~Each~~The plan shall be submitted to the administrator at least
29 seven days prior to the vessel entering waters of the state.

30 (2) ~~Each~~The plan shall provide evidence of compliance with
31 the International Safety Management Code, established by the
32 International Maritime Organization, as applicable.

33 (3) If the oil spill contingency plan is for a tank vessel, the plan
34 shall include both of the following:

35 (A) The plan shall specify oil and petroleum cargo capacity.

36 (B) The plan shall specify the types of oil and petroleum cargo
37 carried.

38 (4) If the oil spill contingency plan is for a nontank vessel, the
39 plan shall include both of the following:

1 (A) The plan shall specify the type and total amount of fuel
2 carried.

3 (B) The plan shall specify the capacity of the largest fuel tank.

4 (d) An oil spill contingency plan for a marine facility shall also
5 include, but is not limited to, all of the following provisions:

6 (1) Provisions for site security and control.

7 (2) Provisions for emergency medical treatment and first aid.

8 (3) Provisions for safety training, as required by state and federal
9 safety laws for all personnel likely to be engaged in oil spill
10 response.

11 (4) Provisions detailing site layout and locations of
12 environmentally sensitive areas requiring special protection.

13 (5) Provisions for vessels that are in the operational control of
14 the facility for loading and unloading.

15 (6) Provisions for training and drills on all elements of the plan
16 at least annually.

17 (7) Provisions for subjecting all elements of the plan to tests,
18 as specified by the administrator, at least once every three years.

19 (e) The oil spill contingency plan shall be available to response
20 personnel and to relevant state and federal agencies for inspection
21 and review.

22 (f) The oil spill contingency plan shall be reviewed periodically
23 and updated as necessary. All updates shall be submitted to the
24 administrator pursuant to this article.

25 (g) In addition to the regulations adopted pursuant to Section
26 8670.28, the administrator shall adopt regulations and guidelines
27 to implement this section. The regulations and guidelines shall
28 provide for the best achievable protection of coastal and marine
29 resources. The administrator may establish additional oil spill
30 contingency plan requirements, including, but not limited to,
31 requirements based on the different geographic regions of the state.
32 All regulations and guidelines shall be developed in consultation
33 with the State Interagency Oil Spill Committee and the Oil Spill
34 Technical Advisory Committee.

35 *SEC. 2. Section 8670.30 of the Government Code is amended*
36 *to read:*

37 8670.30. (a) An oil spill response organization may apply to
38 the administrator for a rating of that OSRO's response capabilities.
39 The administrator shall establish rating levels for classifying
40 OSROs pursuant to subdivision (b).

1 (b) Upon receiving a completed application for rating, the
2 administrator shall review the application and rate the OSRO based
3 on the OSRO's satisfactory compliance with criteria established
4 by the administrator, which shall include, but is not limited to, all
5 of the following elements:

6 (1) The geographic region or regions of the state where the
7 OSRO intends to operate.

8 (2) Timeframes for having response resources on-scene and
9 deployed.

10 (3) The type of equipment that the OSRO will use and the
11 location of the stored equipment.

12 (4) The volume of oil that the OSRO is capable of recovering
13 and containing.

14 (c) The administrator shall not issue a rating until the applicant
15 OSRO completes an unannounced drill. The administrator may
16 call a drill for every distinct geographic area in which the OSRO
17 requests a rating. The drill shall test the resources and response
18 capabilities of the OSRO, including, but not limited to, on water
19 containment and recovery, environmentally sensitive habitat
20 protection, and storage. If an OSRO fails to successfully complete
21 a drill, the administrator shall not issue the requested rating, but
22 the administrator may rate the OSRO at a rating lesser than the
23 rating sought with the application. If an OSRO is denied a
24 requested rating, the OSRO may reapply for rating.

25 (d) A rating issued pursuant to this section shall be valid for
26 three years unless modified, suspended, or revoked. The
27 administrator shall review the rating of each rated OSRO at least
28 once every three years. The administrator shall not renew a rating
29 unless the OSRO meets criteria established by the administrator,
30 including, at a minimum, that the rated OSRO periodically tests
31 and drills itself, including testing protection of environmentally
32 sensitive sites, during the three-year period.

33 (e) The administrator ~~may~~ *shall* require a rated OSRO to
34 demonstrate that the rated OSRO can deploy the response resources
35 required to meet the applicable provisions of an oil spill
36 contingency plan in which the OSRO is listed. These
37 demonstrations may be achieved through inspections, announced
38 and unannounced drills, or by any other means.

1 (f) (1) Except as provided in paragraph (6), each rated OSRO
2 shall satisfactorily complete at least one unannounced drill every
3 three years after receiving its rating.

4 (2) The administrator may modify, suspend, or revoke an
5 OSRO's rating if a rated OSRO fails to satisfactorily complete a
6 drill.

7 (3) The administrator may require the satisfactory completion
8 of one unannounced drill of each rated OSRO prior to being
9 granted a modified rating, ~~or for~~ *and shall require satisfactory*
10 *completion of one unannounced drill for each rated OSRO prior*
11 *to being granted a renewal*; or prior to reinstatement of a revoked
12 or suspended rating.

13 (4) A drill for the protection of environmentally sensitive areas
14 shall conform as close as possible to the response that would occur
15 during a spill but sensitive sites shall not be damaged during the
16 drill.

17 (5) The response resources to be deployed by a rated OSRO
18 within the first six hours of a spill or drill shall be dedicated
19 response resources or be owned and controlled by a rated OSRO
20 that are sufficient to meet the spill response planning requirements
21 of the OSRO's client owner or operator. This requirement does
22 not preclude a rated OSRO from bringing in additional response
23 resources. The administrator may, by regulation, permit a lesser
24 requirement for dedicated or OSRO owned and controlled response
25 resources for shoreline protection.

26 (6) The administrator may determine that actual *satisfactory*
27 *spill response performance during the previous three years* may
28 be substituted in lieu of a drill.

29 (7) The administrator shall issue a written report evaluating the
30 performance of the OSRO after every unannounced drill called by
31 the administrator.

32 (8) The administrator shall determine whether an unannounced
33 drill called upon an OSRO by a federal agency *during the previous*
34 *three years* qualifies as an unannounced drill for the purposes of
35 this subdivision.

36 (g) Each rated OSRO shall provide reasonable notice to the
37 administrator about each future drill, and the administrator, or his
38 or her designee, may attend the drill.

39 (h) The costs incurred by an OSRO to comply with this section
40 and the regulations adopted pursuant to this section, including

1 drills called by the administrator, shall be the responsibility of the
2 OSRO. All local, state, and federal agency costs incurred in
3 conjunction with participation in a drill shall be borne by each
4 respective agency.

5 (i) (1) A rating awarded pursuant to this section is personal and
6 applies only to the OSRO that receives that rating and the rating
7 is not transferable, assignable, or assumable. A rating does not
8 constitute a possessory interest in real or personal property.

9 (2) If there is a change in ownership or control of the OSRO,
10 the rating of that OSRO is null and void and the OSRO shall file
11 a new application for a rating pursuant to this section.

12 (3) For purposes of this subdivision, a “change in ownership or
13 control” includes, but is not limited to, a change in corporate status,
14 or a transfer of ownership that changes the majority control of
15 voting within the entity.

16 (j) The administrator may charge a reasonable fee to process an
17 application for, or renewal of, a rating.

18 (k) The administrator shall adopt regulations to implement this
19 section as appropriate. At a minimum, the regulations shall
20 appropriately address all of the following:

21 (1) Criteria for successful completion of a drill.

22 (2) The amount and type of response resources that are required
23 to be available to respond to a particular volume of spilled oil
24 during specific timeframes within a particular region.

25 (3) Regional requirements.

26 (4) Training.

27 (5) The process for applying for a rating, and for suspension,
28 revocation, appeal, or other modification of a rating.

29 (6) Ownership and employment of response resources.

30 (7) Conditions for canceling a drill due to hazardous or other
31 operational circumstances.

32 (l) Any letter of approval issued from the administrator before
33 January 1, 2002, that rates an OSRO shall be deemed to meet the
34 requirements of this section for three years from the date of the
35 letter’s issuance or until January 1, 2003, whichever date occurs
36 later.